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ABSTRACT

This is a joint publication of the Community College League of California and the Academic Senate for California Community Colleges. It presents 27 scenarios that illustrate effective participation in district and college governance. The scenarios represent situations that raise questions regarding the roles of key figures in governance, including those among the academic senate, administrators, and the board of trustees. The format for each scenario includes: (1) a statement of the issue; (2) a citation of the pertinent section of Title 5 or the Education Code and determination of whether or not the issue is under the purview of the academic senate; (3) the process recommended to resolve the situation; (4) a description of a suggested approach; and (5) references to appropriate questions and answers. The scenario topics include curriculum; degree and certificate requirements; grading policies; educational program development; student preparation and success; faculty roles in district and college governance structures; faculty roles in accreditation; policy for faculty professional development activities; processes for program review; processes for institutional planning and budget development; minimum qualifications for hire; hiring criteria, policies and procedures; late retirements; equivalency to minimum qualifications; administrative retreat rights; and placing items on the governing board and academic senate-union relations. The recommended approaches to these issues assume that board policies on effective participation in governance are in place. (Author/NS)

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Scenarios to Illustrate Effective Participation in District and College Governance

A Joint Publication of the Community College League of California and the Academic Senate for California Community Colleges

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The following scenarios represent situations that raise issues regarding the respective roles of key players in governance. This document primarily addresses the relationships among the academic senate, administrators, and the board of trustees but also demonstrates how these groups work constructively with students, classified staff, and faculty unions to assure collegial governance of the institution. The purpose of these scenarios is to provide concrete applications of the recommendations in "Participating Effectively in District and College Governance," also a joint publication of the Community College League and the Academic Senate. We invite your reactions to the scenarios and encourage the contribution of your own situations to future edition. Contact the Academic Senate at asccc@ix.netcom.com and the League at cclc@ccleague.org. The format of this presentation is to state the scenario and then provide the following analysis:
Statement of the issue.

Citation of the pertinent section of Title 5 or the Education Code and determination of whether or not this is an issue under the purview of the academic senate with an explanation of the reasoning involved.

Process recommended to resolve the situation described in the scenario, specifically the role of the leadership of the academic senate, administration, and/or board.

Description of a suggested approach to use which might avoid problems that arise in the scenario. References to appropriate questions and answers in AParticipating Effectively@ will also be given.

The scenarios are organized around the areas of responsibility of the academic senate.

Curriculum ..... Scenarios 1, 2, and 3
Degree and Certificate Requirements ..... Scenario 4
Grading Policies ..... Scenario 5
Educational Program Development ..... Scenario 6
Student Preparation and Success ..... Scenario 7
Faculty Roles in District and College Governance Structures ..... Scenarios 8 and 9
Faculty Roles in Accreditation ..... Scenarios 10 and 11
Policy for Faculty Professional Development Activities ..... Scenarios 12 and 13
Processes for Program Review ..... Scenario 14
Processes for Institutional Planning and Budget Development ..... Scenarios 15, 16, and 17
Minimum Qualifications for Hire ..... Scenario 18
Hiring Criteria, Policies and Procedures ..... Scenarios 19 and 20
Late Retirements ..... Scenario 21
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Administrative Retreat Rights ..... Scenario 23
Placing Items on the Governing Board ..... Scenario 24
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Introduction

These scenarios are intended to illustrate situations that can develop when implementing collegial governance. They do not cover all possibilities that can arise. It is not proposed that you sort through these scenarios to find one similar to your problem and then use this answer as your solution. Each situation is unique and calls for its own approach. The suggested approaches should be viewed as interpretive notes and possible models. They are not intended as legal opinions. Very definitely, the responses indicated here are not to be construed as limiting your choices of action. In particular, your college may have developed local agreements that are effective and appropriate but which differ significantly from the responses given here. This is quite appropriate given the strong influence of local college culture on the evolution of collegial governance mechanisms.

The recommended approaches are based on a Atypical@ college situation. It is assumed that board policies on effective participation in governance are in place. These scenarios are intended to encourage all participants to work within the system, act cooperatively and responsibly, know and seek to follow the law, and be focused on meeting student needs. The CEO of a multi-campus district is referred to as Achancellor,@ and the CEO of a college, either in a single or multi-campus district, is called simply Apresident.@ It is assumed that the board designee is the chancellor for district matters and the president for college matters. Academic senate structure is based on a representative council model rather than a senate of the whole. Faculty are presumed to be represented by an exclusive bargaining agent. It is assumed that a committee structure is in place in which all representatives are appointed by their constituency groups. The committees referenced may be either college committees or senate committees depending on the situation.

When appropriate, the scenario will specify if the mode of collegial consultation is mutual agreement or primary reliance. The steps recommended to approach each situation typically begin by calling for communication between the college president and the senate president. The process usually goes on to state what the outcome of this discussion should be. The term Ashould@ is used in the sense of good practice, not as a mandate. In some cases, the process described in the scenario stops here. In real life situations it may be that resolution has not be reached through this discussion, and further action is needed. Common follow up steps are included in some scenarios, and, of course, can be generalized to other situations in which it was assumed that the problem was solved at an early stage. For example, the academic senate and other interested parties always have the right to take an issue to the governing board. Throughout, it is recognized that the local board of trustees and the CEO as agent of the board, has not only the responsibility to act in good faith but also the ultimate authority to make the final decision within the scope of law and regulation. Also, as mentioned in question 39 in AParticipating Effectively,@ technical assistance can be requested from the Academic Senate and the League, and legal remedies are available as well.

Curriculum

Scenario 1 For some time the residents of a remote section of the district have sought instruction via distance education. Several faculty members who have an interest in distance education have been provided by the Vice President of Instruction with support to convert several existing courses to Internet format. Without proper review or approval, several sections of existing courses are offered the next semester via the Internet.

Issue: The issue is what is the process for approval of courses taught in distance education format.

Citation: Title 5 ' 55378 requires distance education courses to be separately reviewed and approved by the curriculum committee. Policies and procedures regarding curriculum are an academic and professional matter under Title 5 ' 53200(c)(1), and effective instructor-student contact in distance education courses is an academic and professional matter under Title 5 ' 55376.

Process: The academic senate president should confer with the chair of the curriculum committee regarding the procedure for separate review and approval of distance education courses and determination of effective instructor-student contact. They should then meet jointly with the vice president to go over the proper process and criteria. The vice president and the academic senate president should immediately meet with the curriculum committee, with the instructors involved also present, to determine whether to withdraw the distance education course sections until the proper approval process has been followed or let the scheduled sections be offered and then follow the process before any such courses are offered again.

Suggestion: Clear and effective policies and processes should be in place for the review and approval of courses and sections offered in distance education mode. Regardless of who takes the initiative to encourage faculty to develop Internet-based courses, the changes must go to the curriculum committee following policies and processes developed through collegial consultation with the academic senate. See AParticipating Effectively@ questions 14, 15, 36, 38, and 39.

Scenario 2 The philosophy department offers logic as Philosophy 5. The math department has forwarded a proposal to the curriculum committee to add the same course to their curriculum, with the same course outline of record, as Math 5. The philosophy department has come to the academic senate with a resolution to deny permission to the math department to offer the course.

Issue: The issue is the process for course approval.

Citation: Title 5 ' 55002(a) states that a credit course must be Arecommended by the college and/or district curriculum committee and approved by the district governing board.@ Title 5 ' 53200(a) states Athat the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters@ of which curriculum is one. Thus the policies and procedures for the review of courses is subject to collegial consultation with the academic senate but the review itself is the responsibility of the curriculum committee. The above case involves course review and approval and is thus under the purview of the curriculum committee.

Process: The matter should be resolved by the curriculum committee. It is good practice for committees dealing with curriculum matters to report regularly to the academic senate to assure that the approved policies and procedures are followed. Upon resolution, the curriculum committee should report to the academic senate that the issue was solved following established procedures.

Suggestion: The issue should have been resolved at the department or division level. The faculty department chairs and division deans should have met to straighten out differences and to consider options that would allow both departments to offer their respective

courses. Strategies include cross-listing and double listing as explained in the Academic Senate document APlacement of Courses Within Disciplines.@ See also AParticipating Effectively@ question 19.

Scenario 3 In order to meet budget constraints, the college president has proposed that the reassigned time for the curriculum chair be reduced by half. The academic senate by-laws, as approved by the board of trustees, and the description of the committee in the college curriculum handbook, as mutually agreed upon by the senate and the president, call for the faculty curriculum chair to be appointed by the academic senate with a stated amount of reassigned time. The academic senate objects to the change in reassigned time and has found no qualified faculty member who is willing to do the job for the reduced amount of reassigned time. With no faculty appointee coming forth from the academic senate, the college president appoints an administrator to chair the curriculum committee.

Issue: The issues are who has the authority for the establishment and structure of the curriculum committee and whether or not reassigned time for faculty performing duties such as chair of the curriculum committee is subject to collegial consultation.

Citation: Title 5 '55002(a)(1) states AThe college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.@ The structure of the committee had been previously established by mutual agreement and the committee so established must remain as originally comprised until such time as changes are mutually agreed upon by the academic senate and the college president.

Reassigned time for faculty performing duties under the purview of the academic senate is usually determined by written agreement between the college and the senate (although not an academic or professional matter) or is spelled out in the bargaining agreement.

Process: The college president should work with the academic senate to explain the rationale for reducing the reassigned time of the committee chair. There should be a good faith discussion with the academic senate of the rationale and an effort to reach mutual agreement on the change. If good faith efforts on the part of both do not produce results, a mutual request should be made for technical assistance from the Community College League and the Academic Senate. Note that the regulation cited is not part of the sections of Title 5 having to do with collegial consultation; thus the college president may not act independently by invoking the Alegal liability@ or Asubstantial fiscal hardship@ clauses of ' 55203(d)(2). If technical assistance does not resolve the matters, the academic senate has legal recourse both in the form of complaints to the Chancellor=s Office on violations of Title 5 and to the courts on the violation of the written agreement for reassigned time.

Suggestion: Processes for changing existing agreements should be clearly stated in writing. In most cases past practice is honored when there is a continuing good relationship between the academic senate and the college president. However, in absence of a good written agreement, the senate would have little legal basis for insisting on the reassigned time. In this case, when the college president saw the need for dealing with financial problems by reassessing the use of faculty reassigned time, a mechanism should have been in place for dealing with the proposal. If the agreement had been in the union contract, that process would clearly be negotiation. When the agreement is a written understanding between the academic senate and the administration, both parties must build into the agreement a mechanism for resolving differences, such as use of an impartial mediator. See AParticipating Effectively@ questions 17 and 21.

Degree and Certificate Requirements

Scenario 4 The governing board of a district with several colleges, each with an academic senate, and a district academic senate, has adopted a collegial consultation policy that specifies that it will rely primarily on the advice and judgment of the academic senate on all academic and professional matters. Each college has its own catalog separately approved by the board. One college has proposed an associate degree requirement in information competency for its graduates. The proposal was developed following the agreed upon collegial consultation process at the college. The academic senate at one of the other colleges objects to the proposal and has brought the matter to the district academic senate. The senate claims that degree requirements are a district matter and should be recommended by the district academic senate, not the college academic senate.

Issue: The issue is whether degree requirements are a matter for consultation at the district or college level.

Citation: Title 5 ' 53203(a) says, AThe governing board of a community college district shall adopt policies for the appropriate delegation of authority and responsibility to its college and/or district academic senate.@ In this case the board has delegated authority to the college AND district academic senates. Is the issue of degree requirements under the jurisdiction of the college or district? Title 5 ' 55806 states, AThe governing board of a community college district shall confer the degree of

Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). ...at least 12 semester or 18 quarter units must be competed in residence at the college granting the degree.@ Thus, considering that degrees are granted by the college and, in this case, the board has no stated degree requirements that apply to all colleges in the district, consultation should occur with the college academic senate.

Process: In this case, the district academic senate should cite the above regulation and inform the concerned college academic senate that the other college is within its rights to propose a change to the college graduation requirements. In deliberating on the proposed change, the board of trustees should consider factors such as uniformity of requirements for students who may move from one college to another within the district. It is possible for the board to specify degree requirements that would apply to all colleges in the district.

Suggestion: It is essential that each matter be clearly identified as a college or district issue and dealt with appropriately. It is not possible to anticipate all possible issues, and thus it is good practice to have a forum at which this determination can be made. In multi-college districts, either a district academic senate or meetings of college senate leaders should serve as that forum. Potential matters of conflict between colleges should be identified and resolved as early as possible. See AParticipating Effectively@ questions 18 and 23.

Grading Policies

Scenario 5 Following a recommendation of its Educational Policies Committee, consisting of faculty representatives of each of the college divisions, the academic senate has passed a resolution calling for the governing board to establish plus/minus grading. Grading policies are a Arely primarily@ issue in the district. The item is placed on the board agenda and the associated students president objects on the grounds that students did not participate in the development of the recommendation. The governing board pulls the item from the agenda and asks the academic senate and the associated students to work together on the proposal.

Issue: The issues are the responsibility of the governing board to rely primarily on the advice and judgment of the academic senate on academic and professional matters and to assure the effective participation of students on matters which affect them.

Citation: Title 5 ' 51023.7(a)(2) states AExcept in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formation of the policy or procedure or the joint development of recommendations regarding the action.@ Title 5 ' 51023.7(b)(1) identifies Agrading policies@ as a matter with significant effect on students. Thus the governing board must not act on the grading proposal until students have had the opportunity to participate in its development.

Process: The academic senate and the associated students should confer on a process through which the academic senate can retain its primary recommending authority while

allowing students significant input on the nature of the proposal.

Suggestion: Matters of concern to several groups should be shared in an appropriate venue early in their developmental stages. The college should have a process in place to handle issue management. By sharing the desire to develop such a policy, the academic senate could identify the concerns of students and build their involvement into the proposal process. It is the responsibility of all parties, the academic senate, CEO, and administration, as well as the board of trustees, to assure that students and staff participate effectively in the development of recommendations on matters that affect them. See AParticipating Effectively@ questions 16, 18, 21, 28, 29, and 30.

Educational Program Development

Scenario 6 A new occupational program is being considered, one which is unrelated to any existing program at the college. The college does not currently employ any faculty in the discipline covering the new program, either full- or part-time. Developing a job announcement through the Office of Instruction and using the Dean of Occupational Education and the Director of Community Services as the screening committee, the president is set to recommends to the governing board the hiring of two part-time faculty to develop the curriculum for the new program. This method of developing a job announcement and screening candidates does not follow the existing hiring policy.

Issue: The issues here are the responsibility for educational program development and the requirement to follow established hiring practices.

Citation: Title 5 ' 53200(c)(4) identifies educational program development as an academic and professional matter. Education Code ' 87360(b) requires that Ahiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by the representatives of the governing board and the academic senate, and approved by the governing board.@

Process: While it is within the purview of the college president to identify the need for additional faculty, existing hiring procedures must be followed. The college president and the academic senate president should meet, evaluate the proper steps to follow in the college hiring process, and go over the steps to be followed in developing a new program. These steps should include evaluation of the need for additional faculty, full- or part-time, to develop and teach the program. The college president should not advance the issue to the board until these matters are settled.

Suggestion: Although there very well may be a need for this new program, the college president should have followed established procedures. For example, the curriculum committee may be charged with discussion of new programs. That committee, following policies and procedures derived from collegial consultation with the academic senate, would then make a proposal regarding the potential new program, including the possibility of hiring new faculty. The proposal for new faculty would typically be considered through a collegial consultation process such as a committee charged with making staffing recommendations. Once the need for the new program and staff are established, the hiring process can begin. See AParticipating Effectively@ questions 16, 17, and 21.

Student Preparation and Success

Scenario 7 The matriculation coordinator *needs* the signature of the academic senate president on the matriculation budget report the day before the report is due. There has been no prior opportunity for consultation, and this is the first time the academic senate president has seen the report. The academic senate president refuses to sign.

Issue: The issues are the responsibility for matriculation and the meaning of the academic senate president=s signature on reports to the Chancellor=s Office.

Citation: Title 5 '53200(c)(5) cites student preparation and success as an academic and professional matter. Title 5 '55510(b) states that matriculation plans Ashall be developed through consultation with representatives of the academic senate, students, and staff with appropriate expertise, pursuant to Section 51023 et seq.@ A required component of that plan is the matriculation budget. The annual report gives the amount budgeted, the amount spent, and the amount of the required match, all broken down for each of the eight matriculation components.

Process: The academic senate president should work with the matriculation coordinator to request a time extension from the Chancellor=s Office. The matriculation advisory committee should review the report and make a recommendation to the academic senate. The academic senate should review the report, as well as the previously approved matriculation plan, and, when assured that consultation has been achieved, the academic senate president should sign the report. Note that consultation means the opportunity to provide commentary on the draft report that is meaningfully considered when preparing the final report. The meaning of the signature is to attest that all local consultation has occurred, not to approve the contents of the report.

Suggestion: The matriculation plan should be reviewed annually by the matriculation advisory committee and any changes developed with the consultation of the academic senate. The annual budget report to the Chancellor=s Office should be in accord with the matriculation plan and should be reviewed by the matriculation advisory committee. Academic senate representatives to the committee should make regular reports to the senate, including drafts of the annual report, and receive direction from the senate on needed changes. In this manner, academic senate representatives can be regularly involved in consultation on matriculation and the local senate can authorize the senate president=s signature on the report with confidence. See AParticipating Effectively@ questions 16, 17, 21, and 24.

Faculty Roles in District and College Governance Structures

Scenario 8 The administration met over the summer to discuss college reorganization. When faculty returned in the fall, they were presented with a draft plan which merged discipline departments into new divisions. The merged division offices were to be separated into two locations. In one location would be the classified staff and the faculty mailboxes and in the other location would be the offices of the division deans. The stated purposes of the draft plan were to 1) enable student services and instruction to work together in an integrated fashion, 2) commingle faculty from the general education and vocational education disciplines, and 3) balance the workload of the division deans.

Issue: The issue is the extent to which this plan constitutes a change in the faculty roles in governance (and possibly other academic and professional matters) or just a reordering of the administrative organizational chart and new physical location of staff.

Citation: Title 5 ' 53200(c)(6) lists district and college governance structures, as related to faculty roles, as an academic and professional matter. Education Code 70902(b)(4) gives the governing board the power to AEmploy and assign all personnel not inconsistent with the minimum standards adopted by the board of governors....@ Paragraph (d) of that section allows Adelegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate....@ The question thus comes down to determining whether the proposal alters the governance role of faculty or just reorganizes divisions under the rights of assignment which the governing board has delegated to the CEO.

1. If the governance structure is based on faculty representation by division, then the academic senate has the right to be consulted on how the reorganization will affect that representation. For example, if the composition of the Budget Advisory Committee specifies one faculty member from each division and the reorganization reduces the number of divisions from eight to four, then obviously adjustments in the governance agreement regarding faculty representation on this committee are needed. It might also be that the change alters the development and review of curriculum and educational programs, especially if such processes are based on a divisional structure of related disciplines.
2. If the planned reorganization does not change the governance role of faculty or any related academic and professional matter, collegial consultation is not required by Title 5 regulations. Note, however, that Education Code 70902(b)(7) requires governing boards Ato ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration.@ Even if the reorganization does not affect academic and professional matters, all constituencies must be given the chance to comment on the reorganization and to have their input considered in the plan.

1.

Process: The academic senate should approach the CEO with the faculty=s concerns. If faculty roles are changed or other academic and professional matters are altered, the CEO must allow for consultation with the academic senate before moving ahead. If not, the reorganization may proceed. However, the CEO must allow for review of the plan and give reasonable consideration to opinions received.

Suggestion: The desire for reorganization was undoubtedly motivated by some perceived

problems with the present structure. The college administration can express its leadership by calling together campus representatives to discuss and analyze organizational problems perceived by the administration. Once difficulties have been recognized and defined, a full range of possible solutions can be explored and evaluated. If these solutions affect faculty role in governance or other academic and professional matters, appropriate consultation with the academic senate should be sought. With that essential input, the administration can then proceed with implementation of the best of the results. See AParticipating Effectively@ questions 8 and 9.

Scenario 9 The chancellor is excited about distance education and creates a new district committee charged with developing and implementing procedures on technology mediated instruction. The chancellor then decides that there should be four representatives from each constituency group to serve on the committee and asks the academic senate president to appoint four faculty members. The academic senate president asks for collegial consultation on the formation of the committee including the charge, membership, and reporting responsibilities.

Issue: The issue is whether or not the formation of this committee on technology mediated instruction is an academic and professional matter.

Citation: Chancellor=s Office Legal Opinion M 97-20 states, Asome degree of consultation will be required if the purpose of the committee is to develop policy or procedures related to an academic and professional matter.@ Title 5 ' 53200(c)(1) lists curriculum as an academic and professional matter, and technology mediated instruction is certainly a curriculum issue. Thus the chancellor must consult with the academic senate on the particulars of this committee.

Process: The academic senate president should discuss the matter with the chancellor, present the above citations, and request that the chancellor consult with the academic senate before proceeding with the formation of the committee.

Suggestion: When either party, the administration or the academic senate, considers the possibility for the formation of a college-wide group to discuss policies or procedures related to academic and professional matters, the two should consult before proceeding, preferably at the conceptual stage. If a new group is formed, written agreement should be reached on the charge, membership, and reporting responsibilities of the group. See AParticipating Effectively@ questions 17, 21 and 22.

Faculty Roles in Accreditation

Scenario 10 Two colleges are preparing for accreditation. At both the academic senate appoints the faculty co-chair of the accreditation steering committee, as is specified in existing procedures. At the first college, the college president rejects the appointment and names a faculty member of the president=s own choosing. At the second college, the college president has concerns about the appointment and approaches the academic senate to express those reasons, but the academic senate refuses to discuss the matter.

Issue: The issue here is the authority to make faculty appointments to groups dealing with academic and professional matters.

Citation: Title 5 ' 53203(f) states AThe appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate.@ The authority to make the appointment lies with the academic senate, and the appropriate role of the college president is one of consultation.

Process: At the first college, the academic senate president should approach the college president, cite the above regulation, and require the withdrawal of the president=s appointment. The academic senate president should consult with the college president, and then the academic senate should make the appointment.
At the second college, the college president should approach the academic senate president, cite the above regulation, and require consultation with the academic senate. The academic senate president should place the item on the agenda and make a good faith effort to address the concerns of the college president. After that consultation, the academic senate should either confirm the appointment or make another selection if the concerns were found to have merit.

Suggestion: All parties should be familiar with and should follow written procedures adopted by the college. Disagreements should be settled amicably, and modifications should be made regularly following processes written into the agreement so that decision-making procedures remain relevant and effective. In these cases, if the college president disagrees with the process or the person selected by the senate, the first step should be for the president to consult with the senate either on possible modifications to the process or a change of the person to be appointed. The academic senate should recognize reasonable concerns broached by the college president and be responsive to needed changes. See AParticipating Effectively@ questions 21 and 22.

Scenario 11 After the accreditation steering committee finalizes the self-study report, the college president revises a section to remove comments with which the president disagrees.

Issue: The issues are faculty role in accreditation and the requirements of institutional participation in the accreditation process.

Citation: Title 5 ' 53200(c)(7) on academic and professional matters is AFaculty roles and involvement in accreditation processes, including self study and annual reports.@ The *Handbook of Accreditation and Policy Manual* of the Accrediting Commission for Community and Junior Colleges states, AThe effectiveness of self-regulatory accreditation, however, depends upon the institution's acceptance of specific responsibilities, including complying with all of the standards and abiding by the Commission's policies, procedures, and decisions. There must be institutional commitment to, and involvement in, the accreditation process. The process assumes that each institution has the responsibility to accept an honest and forthright assessment of institutional strengths and weaknesses. As a consequence, a comprehensive self study report and peer evaluation are required. Only in this way will the validity and vitality of the accreditation process be ensured.@

Process: The academic senate president should meet with the college president and request that the original institutional self-study report be submitted as approved by the steering committee. If that request is not honored, the academic senate president should immediately notify the Accrediting Commission of the violation. The academic senate president should refuse to sign the accreditation self-study. The academic senate should file a minority report with the accrediting commission containing the original text of the governance standard response. Members of the academic senate should inform the accreditation visiting team of the actions of the college president.

Suggestion: The accreditation steering committee should consist of key leaders of the college constituencies so that problems, such as the one the college president evidently had in the above situation, may be discussed openly and frankly. All should remain dedicated to discussing the problems facing the college in a direct and constructive manner in the self-study. Changes that the group feels need to be made should be referred to the individual standards task forces for concurrence. The board of trustees should assure the integrity of the process and ultimately accept the report as reflective of the current status and plans of the college on each of the accreditation standards. See AParticipating Effectively@ question 21.

Policies for Faculty Professional Development Activities

Scenario 12 The faculty and staff development committee has approved a particular flex day activity for faculty. A group of faculty object to this activity, have gotten no satisfaction in complaints to the faculty and staff development committee, and now have brought a resolution to the academic senate to stop that particular activity.

Issue: The issue is whether or not individual faculty development activities are subject to collegial consultation with the academic senate.

Citation: Title 5 ' 53200(c)(8) lists APolicies for faculty professional development activities@ as an academic and professional matter. If there has been an action taken contrary to policy, then the academic senate is within its rights to seek corrective action. If the faculty development activity and the process by which it was approved do follow adopted policy, then the academic senate may comment, but it holds no authority to require action.

Process: The academic senate should examine the existing policy on faculty and staff development. The senate should communicate with the staff development committee to ascertain the facts of the case. If the activity or the way it was approved are not in accord with the policy, the academic senate should state so explicitly and take steps to assure that the staff development committee follows the policy. If no policy violations are evident, the academic senate should consider the merits of the complaint raised by the faculty. If the senate feels that a problem exists, it should state the substance of the disagreement and request the staff development committee to reconsider whether or not to offer the activity. This example points that, when consulting collegially on policies, the academic senate needs to follow explicit standards and procedures.

Suggestion: In this case the problem was brought to the attention of the academic senate before any violations occurred and any irreconcilable disputes developed. Note that it is important for the academic senate to clearly distinguish its roles of policy/procedure oversight and of mediation between groups having a dispute on an implementation matter. See AParticipating Effectively@ question 19.

Scenario 13 In restructuring its faculty and staff development program, an 80% reassigned faculty position has been established for a coordinator. The Vice President of Student Services has announced that an internal search will be done and asked the academic senate to appoint several faculty members to the selection committee. No specific written agreements address the mechanism for selection of faculty coordinators from existing staff. The academic senate president calls for the person to be appointed by the academic senate.

Issue: The issue is whether the selection of the faculty and staff development coordinator falls under the appointing authority of the academic senate or the right of assignment of the governing board.

Citation: Title 5 ' 53203(f) grants the authority to the academic senate to appoint faculty to groups dealing with academic and professional matters, which faculty development certainly is. Education Code 70902(b)(4) specifies the right of assignment of the governing board. While the academic senate does have the authority to make faculty appointments, this does not include the appointment of faculty chair a committee or fill a staff position such as coordinator of staff development. (Note that an exception is the curriculum committee, for which Title 5 explicitly mentions how the committee is comprised as requiring mutual agreement. See Scenario 3. Also, when a committee is formed, the structure of the committee is subject to collegial consultation. The agreement on the committee structure may specify a selection procedure for the chair. See Scenario 8.) If the selection of such coordinators is covered in the bargaining agreement, those particulars must be followed.

Process: Upon hearing of the concerns, the Vice President of Student Services should meet with the academic senate president, provide the above citation on the right of assignment, and seek an appropriate role for the senate in the process. While the hiring policy specifies a role for the academic senate in appointing faculty to the selection process, it should also specifically address the method for internal selection of faculty coordinators. Additional items might include helping to write the job description and a definite role in evaluation of the new coordinator. If an agreement

is reached, it should be added to the policy on faculty development. Otherwise, the academic senate president should proceed to appoint faculty to the selection committee.

Suggestion: The problem could have been avoided if either the hiring process or the bargaining agreement contained a method for internal selection of faculty coordinators. In this case, without such an agreement in place, the vice president should have talked to the senate president and invited input by the academic senate. See AParticipating Effectively@ questions 21 and 22.

Processes for Program Review

Scenario 14 The administration and many of the faculty have had several disagreements with the faculty advisor to the college newspaper, the only instructor in the journalism department. The program review committee, on which a majority are among those alienated by this instructor, has developed a revised program review process that includes criteria that will clearly reflect negatively on the journalism program. This revised policy has been placed on the next governing board agenda. The academic senate president objects, citing the need for the governing board to consult collegially with the academic senate on processes for program review. The college president shows evidence of collegial consultation through working with the program review committee.

Issue: The issue is whether or not consultation with a faculty committee meets the collegial consultation requirements of Title 5.

Citation: Title 5 ' 53203(a) states, Athe governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters.@ Consultation is with the academic senate, not with a committee. A committee may develop a proposal for a new or revised policy or procedure regarding an academic and professional matter, but that proposal must come to the academic senate unless the academic senate has formally delegated the task to the committee. Once ratified, the proposal becomes the official recommendation of the academic senate.

Process: Citing the above regulation, the academic senate president should meet with the college president and ask that the board item be pulled. If the item remains, the senate can point out to the board that consultation has not occurred and request that no action be taken on the item. The proposal of the program review committee should be placed on the next academic senate agenda for review. The academic senate should also meet with the faculty representatives on the program review committee and advise them of their responsibility to report to the academic senate on academic and professional policies and procedures.

Suggestion: Legitimate problems with individual faculty performance or behavior should be dealt with through the peer review process or through disciplinary procedures as spelled out in the bargaining agreement and the Education Code. If the program review process needs improvement, proposals for change should come to the academic senate from the committee charged with oversight of program review. Consultation has not been completed until the academic senate formally makes a recommendation on the matter. See AParticipating Effectively@ questions 16 and 25.

Processes for Institutional Planning and Budget Development

Scenario 15 At last year=s governing board retreat on strategic planning, the board talked about the need to respond to the community outcry for more technology related courses. The board members were not sure how to respond to the demands because of fiscal problems within the district. Based on discussions at board meetings over several months, the board decided to lease some land owned by the district to generate funds for technology. The governing board has placed approval of the lease agreement on the next agenda as well as a discussion of how the money is to be used. The academic senate raised concerns about the plan several times and now has passed a resolution objecting to the terms of the lease and demanding a role in determining how any such funds might be used.

Issue: The issue is whether or not the terms of the lease agreement and the process for determining the use of special funds are subject to collegial consultation.

Citation: Education Code ' 70902(b)(6) gives the governing board the right to Amanage and control district property.@ So the terms of the lease are not subject to collegial consultation. Title 5 ' 53200(c)(10) lists Aprocesses for institutional planning and budget development@ as academic and professional matters, in this district a mutual agreement item. Thus the process for determining the use of these funds is subject to *the previously agreed upon process for budget development agreed to in* collegial consultation. In this district a budget committee is used for such matters. Title 5 requires the Facilities Master Plan to include guidelines or policy for designation of surplus property. Also Title 5 places restrictions on the use of funds derived from capital assets such as those from the lease of this property.

Process: Although the academic senate does not have the right of collegial consultation on the terms of the lease, it my still present its arguments to the chancellor and, if necessary, to the board. The academic senate should discuss with the chancellor the necessity of directing the issue of the funds to the budget committee. If there is a process in place for determining the use of such funds, that process should be followed. If not, the budget committee should make a proposal to the academic senate and the chancellor regarding the process for *determining the recommendated* use of these funds. The academic senate and the chancellor, as the board=s designee, should mutually agree on the process for determining the use of these funds.

Suggestion: Disagreements over this issue should have been resolved early in the discussion. The academic senate president and the chancellor should have met as soon as questions arose over the lease. If the above recommended process has been initiated at the outset, disagreements might not have grown to the extent that they threatened to disrupt board action on the item. Providing an arena where key campus leaders can gather for such discussions might have facilitated reaching the correct solution. See AParticipating Effectively@ questions 8 and 18.

Scenario 16 The budget committee is considering a change in its administrative procedures for the budgeting of discretionary funds. The committee is made up of representatives of all constituent groups; however, the majority are faculty appointed by the academic senate. The chair, the vice president of administrative services, over the objections of the faculty on the committee, has sent the procedural change to the college president, who has sent out a letter to the entire college announcing the adoption of the procedural change. The faculty members of the budget committee have come to the academic senate objecting to the process. The governing board policy specifies that the process for budget development is to be mutually agreed upon with the academic senate.

Issue: The issue is the academic senate role in budget process changes.

Citation: Title 5 '53200(c)(10) cites Aprocesses for institutional planning and budget development@ as an academic and professional matter. This change in existing budget development process is a matter for collegial consultation with the academic senate.

Process: The academic senate president should immediately meet with the college president, cite the regulation, and request consultation on the budget process change. Further, the college president should notify college personnel that the change is suspended pending consultation. The academic senate should place the matter on its next agenda. If, after a good faith effort, no agreement can be reached, Aexisting policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship.@

Suggestion: The budget committee proposal should have been sent to the academic senate for review and approval. If approved by the senate and the administrative designee of the board, the process change becomes effective. If not approved by the senate, the board may still institute the change but must establish that failure to implement the new process would cause legal or fiscal problems. See AParticipating Effectively@ questions 10, 14, and 15.

Scenario 17 The Vice President of Business Services has proposed that the construction of the new occupational education building be financed through certificates of participation. The building has long been a part of the master plan developed using a planning process established through collaboration with the academic senate. A group of business faculty bring an analysis of the financing to the academic senate, object to the proposal, and suggest that the academic senate approach the governing board with a different financing plan.

Issue: The issue here is whether or not the financing plan for the construction of a building is an academic and professional matter.

Citation: Title 5 ' 53200(c)(10) lists Aprocesses for institutional planning and budget development@ as an academic and professional matter. This term applies to the procedures by which the budget is developed, not specifics such as financing mechanisms.

Process: The academic senate should inform the concerned faculty that they may directly approach the Vice President of Business Services and, if necessary, the governing board, with their analysis.

Suggestion: Comments on matters such as building financing plans should be heard in public forums designed for that purpose. Usually, the academic senate has no formal involvement in the development or review of a matter such as this. See AParticipating Effectively@ question 10.

Minimum Qualifications for Hire

Scenario 18 A proposal has been made by the administration that counseling aides should now be assisting students in completing educational plans. The counseling faculty have come to the academic senate with a concern that this proposal would ask these aides to do the work of professional counselors.

Issue: The issue here is the duties to which faculty minimum qualifications apply.

Citation: Counseling faculty require a master=s degree as minimum qualifications, Title 5 ' 53410. The functions of the counseling program are specified in Title 5 ' 51018(b):

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

Furthermore, local bargaining agreements typically contain a job description of faculty positions including instructor, counselor, and librarian. Items dealing with faculty qualifications are primarily in the realm of the academic senate while matters dealing with specific job duties are primarily a union responsibility. The academic senate and the union should work cooperatively in addressing the problem stated here.

Process: Academic senate and union representatives should meet jointly with the counseling faculty. Once the facts of the case are clear, both should approach the administration to assure that the duties of professional counselors are being performed by faculty meeting minimum qualifications. If satisfaction is not obtained, further action should be pursued by the academic senate approaching the board regarding minimum qualifications violations and by the union through a grievance filed by the counseling faculty regarding violations of job duties.

Suggestion: Job descriptions of counselors should clearly identify academic counseling such as development of educational plans as duties of professional counselors. Job descriptions of counseling aides should clearly identify that duties are limited to such non-counseling activities as helping students with the scheduling of classes already identified in educational plans developed by professional counselors. Any proposed changes in job descriptions should be developed through a structured administrative human resources process and entered into negotiations. In no case should faculty duties be performed by classified employees.

Hiring Criteria, Policies and Procedures

Scenario 19 The president seeks to change the existing faculty hiring process in which the selection committee forwards just one name to the college president to advance to the governing board for hiring. The college president proposes that the selection committee forward at least three candidates, who would then be interviewed by the president, vice president, and faculty chair of the first round selection committee. The successful candidate would then be advanced to the board by the president. The academic senate reviewed the president=s written proposal, without inviting the president to be present, and passed a brief motion that the academic senate was not interested in changing the process. The college president has now approached the academic senate president seeking a resolution of the differences.

Issue: The issue here is the method by which changes to the faculty hiring process are to be made.

Citation: Education Code ' 87360(b) requires that Ahiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by the representatives of the governing board and the academic senate, and approved by the governing board.@

Process: Under these circumstances it would be expected that the existing process would stay in place until changes are mutually agreed upon. Further, it would be expected that both sides make a good faith effort to reach mutual agreement. In order to make such an effort the academic senate president should identify senate members to meet with the college president to discuss the proposed change. The proposal should then be thoroughly discussed with the full academic senate, even if no alterations to the president=s proposal arise from the committee discussion. The academic senate should offer the opportunity to the college president to be present as a full participant in the discussion. If no mutual agreement is reached, the existing process would remain in effect.

Suggestion: The original process should have contained provisions by which changes could be incorporated. Even without such a provision, both the senate and the president should make a good faith effort to resolve their differences, including the courtesy of inviting the president to be present when the senate discusses the issue. If differences still remain, the senate and president can jointly request help through the League-Academic Senate technical assistance process. See AParticipating Effectively@

questions 21, 33 and 39 and AShared Governance Technical Assistance Process.@

Scenario 20 At an academic senate meeting, the college president made remarks about wanting all new full-time faculty to be technologically literate, to have fund-raising skills, and to have experience with Alower income learners.@ Now job announcements are being sent out with these qualities as Adesired qualifications.@ The faculty in the disciplines doing the hiring objected and took their concerns to the college president, who stated that the only way to reconsider the job announcements would be to immediately halt the hiring process. Worried about losing qualified candidates by such a delay, these faculty have now come to the academic senate seeking resolution.

Issue: The issue here is responsibility for the hiring process.

Citation: Education Code ' 87360(b) requires that Ahiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by the representatives of the governing board and the academic senate, and approved by the governing board.@ The hiring process should address the creation and approval of the job announcement and so would be subject to the involvement of the academic senate in any changes to the process.

Process: If the existing hiring process specifies a method for the creation of the job announcement that has not been followed, the academic senate should take action. The academic senate president should immediately approach the college president, cite the above Education Code section as well as the change from the accepted college hiring process, thus requiring that an amended job announcement be published as well as mailed to all those who have applied so far. The senate and the college president should consider whether or not it is necessary to reannounce the position.

If the existing hiring process is silent regarding the job description, the academic senate president should nevertheless approach the college president and request that it be withdrawn pending mutual agreement. Furthermore, a group of faculty (selected by the academic senate) and administrators should get together and add appropriate language to the hiring process. (There already may be such a committee or group charged with matters related to hiring.) In the mean time, the discipline faculty on hiring committees can assure that the screening process does not include criteria related to the disputed desired qualifications.

Suggestion: The agreed upon hiring process should include the process by which job descriptions are developed and modified. All proposed changes to the job description whether proposed by the college president, discipline faculty, human resources professionals or others should follow the process.

Late Retirements

Scenario 21 The governing board and union have negotiated a Agolden handshake@ retirement package that depends on postponing the hiring of all replacement faculty for one year. The chancellor has now requested of the district academic senate, as required by Title 5 ' 53310(g), that it agree with the delay in filling these positions.

Issue: The issue here is the conditions under which the academic senate should agree to extend the rehiring period for late retirements beyond the six months that districts may enact independently.

Citation: The text of Title 5 ' 53310(g) reads as follows:

The hours of a full-time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025.

Process: The challenge of this situation is for the academic senate to stay focused on the needs of the academic and student services programs of the college, letting the faculty leadership of the union handle the issues associated with the retirement package. In most situations such as this, some faculty rehires will be needed immediately to maintain the integrity of affected programs. It would be appropriate for the academic senate to consider criteria for the determination of which faculty positions would be essential to fill immediately. In many districts the determination of faculty disciplines for new hires has been added as an additional academic and professional matter determined either through direct input of the academic senate or through delegation of this decision to a college committee containing faculty. Once this set of criteria has been developed, the essential positions can be identified. The academic senate can then agree to the postponement of hiring the remaining positions.

Suggestion: The appropriate process is suggested above.

Equivalency to Minimum Qualifications

Scenario 22 The chancellor of a multi-college district has proposed a district-wide equivalency process that includes a district equivalency review committee. This committee would be charged with the final review and recommendation on all equivalency applications for the district. The chancellor wants the committee to consist of representatives of each of the college academic senates, the executive vice president from the affected college, three representatives from the screening committee considering the applications, the district staff diversity officer and the district human resources director. Each of the academic senate presidents maintain that this should remain a college matter, as is currently the policy, and not be handled at the district level.

Issue: The issue is the authority for determining the equivalence process.

Citation: Education Code ' 87359(b) states, AThe process, as well as criteria and standards by which the governing board reaches its determinations, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications specified in regulations adopted by the board of governors...@ Thus any changes in the equivalency process must be jointly agreed upon. Note that this is a matter of statute, not a Title 5 academic and professional matter which would be subject to independent board action for Aunusual circumstances and compelling reasons@ (Title 5 language).

Process: The academic senate presidents should notify the chancellor of the requirement for joint agreement and that existing procedures must remain in place until and unless a new agreement is reached. No mention is made in the law regarding whether equivalency recommendations are to be made at the college or district level. Because hiring recommendations are almost always made at the college level, usually equivalency recommendations are also made at the college, not district, level. Note, however, that once equivalency has been granted by the board, the faculty member then meets minimum qualifications at any of the colleges in the district. The composition of the equivalency committee must also be jointly agreed upon. Note that the law requires the board to rely primarily on the academic senate in the determination of the equivalent qualifications of each individual. Thus equivalency committees usually consist almost entirely of faculty appointed by the academic senate.

Suggestion: The equivalency process should include a mechanism for incorporating changes by mutual agreement. When a given party, such as the chancellor in this case, sees problems that need to be addressed, administrative and senate leaders should get together to analyze and define the problem, consider possible solutions, and seek to reach joint agreement on changes needed to resolve any identified problems.

Administrative Retreat Rights

Scenario 23 The district=s extensive international students program, an ambitious student exchange program with a foreign college, has declined precipitously in recent years and has been canceled. The administrator hired in 1985 to supervise the program does not meet minimum qualifications for any discipline but was reassigned as an electronics instructor. The reassignment was approved by the governing board, and the person is now teaching in that discipline.

Issue: The issue here is administrative retreat rights, specifically the need to meet minimum qualifications.

Citation: Administrators hired prior to July 1, 1990 who have completed a probationary period

are classified as classroom instructors as specified in Education Code '87458.1. Administrators hired after July 1, 1990 can retreat as first year probationary faculty but must meet minimum qualifications to do so as specified in Education Code '87458. Those sections are quoted below. Thus the governing board acted according to law in recognizing that this administrator had status as a classroom instructor. The requirement of minimum qualifications applies only to retreating administrators hired after July 1, 1990.

87458. A person employed in an administrative position that is not part of the classified service, who has not previously acquired tenured status as a faculty member in the same district, shall have the right to become a first year probationary faculty member once his or her administrative assignment expires or is terminated if all of the following apply:

(a) The process by which the governing board reaches the determination shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that the administrator possesses the minimum qualifications for employment as a faculty member. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(b) Until a joint agreement is reached pursuant to subdivision (a), the district process in existence on January 1, 1989, shall remain in effect.

(c) The administrator has completed at least two years of satisfactory service, including any time previously served as a faculty member, in the district.

(d) The termination of the administrative assignment is for any reason other than dismissal for cause.

(e) This section shall apply to every educational administrator whose first day of paid service in the district as a faculty member or an administrator is on or after July 1, 1990.

87458.1. (a) A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom instructor, in the same district, shall be classified as and become a regular employee as a classroom instructor.

(b) This section shall only apply to persons whose first day of paid service in the district without a break in service precedes July 1, 1990.

Placing Items on the Governing Board Agenda

Scenario 24 The chancellor has developed a AProcess to Put Issues Before the Board@ policy which was distributed to all staff. The process stated that all issues, regardless of importance or depth, must go through the chancellor for review and determination before being placed on the board agenda. If the chancellor feels that the matter is a proper board issue, it will be placed on the board agenda. The academic senate is concerned that there may be a time when an issue they wish to place on the agenda will not be agreed to by the chancellor and requests an amendment to the process.

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Issue: The issue here is the right of the academic senate to place matters before the governing board versus the duties assigned to the chancellor to construct the agenda for governing board meetings.

Citation: Title 5 ' 53203(c) states AWhile in the process of consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.@ Thus the academic senate has the right to place matters on the board agenda.

Process: While it is good to have a "normal" process whereby items go on the board agenda, such a process must recognize the right of the academic senate to place items on the agenda, with the role of chancellor being one of consultation rather than as a gatekeeper. It is reasonable that such a process might have deadlines and format requirements. The process can allow for the chancellor or others to comment on all items before they are advanced to the agenda. This process has several advantages. The chancellor will have insight as to the timing of the item going to the board. There may be issues developing that make it more advantageous to the senate to present the item to the board at a slightly later date. The chancellor will also have insights into how the board will react to the item and be able to give advice on effective approaches. It may even be possible for the chancellor to directly resolve the issue without the need to approach the board.

The academic senate president should approach the chancellor and cite the above section of Title 5. A request should be made to modify the chancellor=s proposed process to correctly reflect the academic senate=s right to present material directly to the board. Any written process needs to reflect the special legal position of the academic senate as opposed to general public comment. Academic senate items are not to be relegated to the Apublic comment@ section of the agenda. If the chancellor is insistent on this point, the academic senate president should take the matter directly to the governing board.

Suggestion: The board of trustees should have operational procedures regarding the construction of agendas for its meetings. These procedures should allow for regular reports from the academic senate and should allow for action items to be presented to the board by the academic senate after consultation with the chancellor. The procedure should incorporate reasonable expectations such as presenting the items in writing to the chancellor by a given date and allowing for comment by the chancellor on each item. It is in the best interest of the academic senate and the chancellor to work to determine when and how an issue is best brought to the board. See AParticipating Effectively@ question 34.

Academic Senate-Union Relations

Scenario 25 The collective bargaining agent has renegotiated the contract and changed the language regarding the process for determining the academic calendar. Previously the contract called for the union and the academic senate each to appoint one person to

a calendar committee. Now the union appoints both. The union did not consult with the academic senate before negotiating this change. The matter has now come before the academic senate for a response.

Issue: The issue here is the respective rights of the academic senate and the collective bargaining agent and how they collaborate on issues where such rights may overlap.

Citation: Education Code ' 70902(b)(7) requires the governing board to establish procedures to ensure Athe right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.@ Government Code ' 3540 et seq. (Rodda Act) establishes the right of exclusive bargaining agents to negotiate hours, wages, and working conditions. Title 5 ' 53204 states, ANothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.@ The academic calendar is a matter that has both academic and working conditions implications.

Process: The academic senate should seek ways in which the two organizations can Aconsult, collaborate, share or delegate among themselves@ the responsibility for representing the faculty in constructing the academic calendar. The academic senate might, for example, propose that the union appoint as one of the two members a faculty member identified by the academic senate. To avoid situations like this in the future, methods should be sought to increase communication and collaboration. Strategies that have been found to be effective are the use of liaisons between the two boards, regular meetings between the presidents, regular meetings between the two boards, and delineation-of-function agreements that put into writing compromises like the one suggested above.

Suggestion: Communication and cooperation between the academic senate and the union is ideally on good terms and the contract proposal recognizes the interests of both groups in the calendar and includes appointments by both the senate and the union to the calendar committee. See AParticipating Effectively@ questions 26 and 27.

Scenario 26 The matriculation committee, charged by the academic senate with developing proposals in the area of student preparation and success, has developed a plan for instructor advisors. Following this plan, instructors would do academic advising, particularly program planning, for students majoring in the instructor=s discipline. This is a new practice that has not been tried before. The advising would be done during normal office hours so that additional work hours would not be added. The proposal has come to the academic senate so that a recommendation may be forwarded to the governing board. The union liaison in attendance at the meeting states that this proposal would add a task to the instructor job description and thus falls under working conditions.

Issue: The issue is whether or not instructor advising is a matter for the academic senate, the union, or both, and thus requires a collaboration between the two groups.

Citation: Because this proposal would add advising to the expected job performance of all instructors, not on a voluntary basis, and is not in the current contract, the matter should be negotiated. It may very well be that the proposal has merit, but its implementation should be through collective bargaining. Because it also involves the academic and professional matter of student preparation and success, the union should seek senate input as well.

Process: The academic senate should refer the proposal to the union for negotiation. The union should consult with the senate as the proposal develops.

Suggestion: At its inception, the bargaining implications of the proposal should have been discussed with the union. See AParticipating Effectively@ question 25.

Scenario 27 The union has been frustrated with the lack of responsiveness of the college president to issues under negotiation. Both the union president and the college president are on their respective negotiating teams. The union president comes to the academic senate with a resolution calling for a vote of no confidence in the college president because of failure to make timely and substantive responses to items under negotiation.

Issue: The issues here are the role of the academic senate in the negotiation process and the appropriate use of a vote of no confidence.

Citation: The academic senate does not have a role once the negotiation process has begun. Any action on the part of the academic senate, even when requested by the union president, could be construed to be an intrusion into collective bargaining and a violation of Government Code ' 3540 et seq.

Process: The academic senate should not take action on the vote of no confidence. First, such an action should be based on matters within the purview of the academic senate. Second, the college president follows the direction of the board in negotiations and is not an independent agent. Third, a vote of no confidence is an extreme measure to be taken only when major issues have gotten to the point that no resolution is possible and irreparable harm will be done to the institution. It calls on the governing board to remove the president. A vote of no confidence describes the specific issues and documents them thoroughly in a professional manner, not vindictively or spitefully. It is a declaration on the part of the academic senate that all available means will be used to secure the removal of the president.

Suggestion: The union leadership deals with negotiating problems at the bargaining table and recognizes that the academic senate is not the venue for addressing such problems.

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